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SPEECH

OF

HON. DELOS R. ASHLEY,

OF NEVADA,

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ON

RECONSTRUCTION;

DELIVERED

IN THE HOUSE OF REPRESENTATIVES, MARCH 10, 1866.

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## RECONSTRUCTION.

The House, as in Committee of the Whole on the state of the Union, having under consideration the President's annual message—

Mr. ASHLEY, of Nevada, said:

Mr. SPEAKER: I am ill fitted to-day to speak, having a sore throat which almost prevents my talking at all. And I am unprepared, not knowing until this morning that the sun would ever rise on the day when I would have an opportunity to discuss this subject. But now an opportunity offering for me to speak upon the important matters pending before this Congress and the country, I cannot allow it to pass without saying something; and more especially do I desire so to do because in some respects I differ from many with whom I am affiliated here.

We have passed through a war in regard to which it has been grandiloquently said the world never saw its equal. Certainly it is in many respects the most important that the history of this country records. To initiate a nation that is to exist for a little time and then vanish like a vision is an easy thing; but to place a nation upon such foundation that it can stand the trial of time and demonstrate its adaptability to the wants of a community like ours, in a country extending three thousand miles from ocean to ocean, is a triumph. And such I believe to be this nation and Government of ours.

But, sir, after the clash of arms has passed we must not beguile ourselves with the belief that everything is settled. There are insidious movements made in time of peace which are more dangerous than the attempts of men with arms in their hands to strike down a Government; because in the midst of war the feelings of all men are aroused, and they have their eyes upon all the measures taken; while in time of peace men are lulled into security, and plans that are laid to overthrow or change the Government are more likely to make progress. Such was the origin of the late rebellion, which assumed the gigantic proportions we have seen and grappled and crushed.

Now that the war is over, we should be conscious of the immense responsibility resting upon us in reinstating civil rule, and must look to the consequences likely to follow. No man need tell me that the American people will maintain a system which regards one third of the national territory as provincial. They will insist that Congress shall come speedily up to the work of bringing in the States lately in rebellion to an equality with the rest. And if we fritter away our time, if we go home at the end of this session without making some certain and effective provision for bringing in those States, if we differ among ourselves and insist upon a multitude of little matters, leaving the great and essential points of reconstruction undetermined, the time will come, and speedily, when the representatives of those States lately in rebellion will by some means secure their entrance into these Halls. Our Constitution is futile, if by law and resolution we can indefinitely, and at our caprice, postpone the day when it shall have equal effect, give uniform protection, and insure to each State the right of self-government and the common and fundamental privilege of representation throughout all parts of our country.

Now, sir, I know that to be so. Gentlemen may delude themselves with the idea that they can carry these southern States along in this way by military power. So they can just now. But I tell you that even those men who have been in the ranks of the Union Army during the war will not always consent to be voting against the reconstruction of the Union upon a basis common North and South. And for that reason I desire to see some steps taken immediately to define the grounds we can safely insist upon as essential in reconstruction—a basis plain, short, just, honorable, generous, on which loyalty can rally, and to which only captious demagogues can object.

I have been satisfied for a long time that many of the measures proposed here cannot be passed. Why is it that we have spent here day

after day and week after week over a Freedmen's Bureau bill? It is because we believed that something ought to be done to protect the late slaves. And practically we in this House and in the other branch of Congress showed our willingness to pass such a measure, provided it should only extend to the States which had been in rebellion.

But when it is proposed to pass a law which shall apply generally throughout the country, to States that opposed the rebellion as well as those that supported it, you find that members of our own party are not agreed upon such a measure. We had a bill before us yesterday and some days before for the protection of civil rights—one that had passed the Senate—and after an elaborate discussion here, that bill could not marshal a majority in its favor. Was it simply because it provided that no State should have the right to pass laws discriminating between its citizens? That was simply what we voted for in the Freedmen's Bureau bill. But when that same principle was incorporated into a bill which would apply to our own States as well as the States which were in rebellion, then we are not willing the rule shall be applied. And why is it that men of my own party, from New York, Massachusetts, Ohio, and California vote in such manner as that? Do we occupy a position maintainable before the people of this country when we are willing to vote for a bill applicable to only the southern States in a certain manner, but will not vote that it shall apply to all the States?

Now, if this bill in relation to civil rights is not proper or constitutional in all respects, then most assuredly the President was right in vetoing the Freedmen's Bureau bill, because it imposed the same terms upon a certain number of the States. I do not believe we have a right to specially legislate for some States in a manner not constitutional and proper for all. If we claim that the northern States may make class legislation, then the others have the same right.

Sir, I am afraid we have been squandering our time away in these matters. We should look only to the essential requisites upon which we intend to insist. The Constitution of the United States is an instrument that we should not lightly touch in the way of amendment. There should be grave cause for amendment before we undertake to change it. If such grave cause exists, then we should be as willing to amend that instrument as any other law. Several amendments to the Constitution were adopted soon after its formation; and it has lately been amended so as to abolish slavery, that curse which brought on the war.

The next important change which I think should be made is in regard to the basis of representation in this House. It should be made in a liberal spirit, in such manner that the best interests of the whole country will be main-

tained. Let us not be influenced by men who say, "We admit the propriety of the change, but insist that it shall be made in a certain manner, so that our section of country shall not lose by it in any way whatever." An amendment has passed this House to put into the Constitution of the United States, not the direct authority perhaps, but words by which you acknowledge the authority of States to make discrimination on account of race or color, in giving political rights and powers; an admission not offensively made in the Constitution as it stands, and a fact which, though true, it is in bad taste and policy to flaunt to the world in the Constitution of our Republic. I know that many men in this House voted for that amendment, while they execrated the policy and management which drove them to it. They desired to avoid occupying such a position; but they were driven to it because of the sectional argument and power used here against a certain other proposition based on the eternal principles of justice and of right views of representation, on the pretext that it would lessen the relative power of certain States which happen to be located in glorious old New England. Now that South Carolina has lost her scepter, is the mantle of sanctity to fall around the prerogatives of two or three little States in the North?

That other proposition was that representation in Congress should be based upon the number of citizens allowed the right to vote. Now, sir, as a fundamental principle of representative democracy, I cannot see than any link is lacking in the demonstration that such system of representation is the true one. If this country were so small in geographical extent that all those entitled to share in legislative power could meet in one assembly, who would take part in that assembly? Would women, would children, would the insane, would slaves, and others excluded from the right of voting, act as members of such a democratic Legislature? No, sir, only those whom the country recognizes as having the right to vote in such a primary meeting would be allowed to participate in that governmental assemblage. That being the fact, I ask, when the country has increased to such grand proportions that you cannot call a general meeting of that sort, what is the philosophic consequence in reference to representation?

Why, sir, that a certain number of individual voters who do not present themselves in person may send a representative. If we were now establishing our Government, what would be thought of the proposition of ten men who should say, "True, we are only ten, but we claim the same representation as a hundred, because we have ninety women and children at home?" Why, sir, such a proposition would be scouted. In my estimation, there is no sense in the argument that because a man happens to be surrounded by persons who are not enti-

tled to have their own voices heard, he should for that reason have more influence and power in the Government than a man living in another section of the country and having no such surroundings. It is the argument of aristocracy, and strikes down democratic right by the same reasoning, and no other, which defends a privileged class in its claim of right to govern by reason of birth, wealth, and custom.

But it was urged that the principle of representation based on voters could not be adopted, because some of the New England States, or I believe only one of those States objected on the ground, not that they would lose representation directly, but that some other States would positively gain something. Sir, after all the glorious sacrifices that New England has made for our nation during the Revolution, and in the war of the rebellion, after all the laurels which she has won, I had hoped that she would manifest a spirit of liberality, and that, at the present crisis when it is proper, if not imperatively necessary, that a change in the basis of representation should be made, she would not act the part of the dog in the manger, and object to a wise and just proposition, because some other State will realize under it some little advantage, which relatively the northeastern States do not.

The argument against that proposition was that California would gain two or three Representatives. Sir, what is the position of California. That is a State to which hardy, industrious, enterprising men from the eastern States have gone, and have developed a country which now exports between fifty and seventy-five million dollars of gold and silver per annum. She yearly contributes that amount to the national affluence. And is it maintained that a basis of representation, thus well founded in principle, must be rejected because such a State will get two or three additional Representatives? I affirm that one hundred thousand men who are all producers, who are liable to be called into your armies, who are paying taxes on their incomes, are entitled, as a matter of justice, though there are in their neighborhood few or no women or children or slaves, to more representation than twenty thousand men who happen to be surrounded by eighty thousand non-voters, the products of the labor of these twenty thousand being all absorbed in sustaining that community of one hundred thousand. Yet a principle of representation so well based received only thirty votes in this House. This prejudice against California is akin in its folly to the cupidity which slew the hen that laid golden eggs.

The gentleman from New York [Mr. CONKLING] presented to this House an estimate, approximately and practically correct, of the results of the various constitutional changes as to representation in case of their adoption.

From that estimate I find the following facts in case the voter basis were adopted:

	Present basis.	Voter basis.
Maine.....	5	6
New Hampshire.....	3	3
Vermont.....	3	3
Massachusetts.....	10	12
Rhode Island.....	2	2
Connecticut.....	4	4
	27	30
Michigan.....	6	7
Illinois.....	14	15
Indiana.....	11	11
Iowa.....	6	5
Missouri.....	9	9
Wisconsin.....	6	7
	52	54
Pennsylvania.....	24	24
New York.....	31	35
California.....	3	6
	58	65
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Thus it will be seen that the six New England States gain three members, and the six western States named gain two, while New York gains four and California three.

Thus the amendment harmonizes with natural laws, and distributes political power in a just ratio to the natural centers of business and production, and makes the voter in any one State the peer in power with a voter in any other State.

And it may be well to observe that as these estimates are based on the number of male residents in each State, and as the amendment bases representation on male citizen voters, it is probable New York and California will not gain, by at least one or two each, so many as the estimate shows, because in these two States the alien residents are in greater ratio to their population than will be found in other States.

This amendment leaves, as now, to each State the untrammelled power to regulate the right of voting in its own borders. A State may, as some now do, allow alien residents to vote, but they cannot be counted in the representative census, for it is not correct in principle or consistent with national security and dignity that aliens shall be represented and have a power in our Congress.

The naturalization laws are liberal, requiring only a short residence sufficient to enable the foreigner to become acquainted with our institutions, identified with our interests, and in sympathy with our success; and he who prefers to be an alien ought not to enjoy political advantages equally with a citizen.

This amendment, too, allows the States, in their discretion, to grant suffrage from time to time to such citizens as have become qualified

to exercise the right, and so fast as the privilege is accorded the State *pro tanto* gains in its representation. It also discourages the enactment of laws in the South or elsewhere requiring a long residence of persons coming from other States as a prerequisite to voting. Sound in principle, it has a happy adaptation to settle the differences, quiet the passions, and dispel the prejudices now standing in our way.

As to the other proposition which passed this House for basing representation upon population, exclusive of any races the members of which might be excluded from voting, let me say that, putting aside the question of its justice, there was never any possibility that it could be embodied in the Constitution by the approval of the requisite number of States or could even pass this Congress. If the members of this House did not know this, they ought to have known it. I knew, as many others did, that we were only wasting our time in the discussion and passage of such a proposition. If the theories broached in favor of immediate and universal negro suffrage are even true, what then? You have not the power to enact the theory into law, while the exigency of the country is such that we should hasten to do the best within the range of possibility without delay.

Sir, I believe that the time will come when negroes, becoming educated and acquiring property, will be allowed to vote; but they must be introduced to the full enjoyment of the rights and powers of citizenship gradually. That proposed constitutional amendment does not provide for any such gradual process. It declares that unless they be at once all admitted as voters the State excluding a portion of them shall have no representation for even those allowed to vote.

Mr. Speaker, I do not know that we shall be again called upon to act on this question; but I know that the proposition to base representation on voters is the only one that can be secured. If we are not willing to accept that rule, we shall obtain no change in the Constitution on this subject. If a proposition of this sort cannot be successful here at this session, I should like anybody to tell me when we can get a change. It must be a very sanguine imagination that can see in the future any time when the Union party will be stronger in this Congress than it is today. That time is far off, because now that the war is over there are numerous new questions arising to distract our constituencies; questions of trade, of finance, of tariff, &c.

That amendment basing representation on voters is founded in justice, is based on eternal principle, and it affords the solution for many difficulties which have arisen under our present representative system.

It has been urged that we must control the southern States as to their representation, because they are proposing, at least in Virginia,

to declare that a man coming from another State must be a resident five years before he can vote. If they can do that, and perhaps they can, they can make a requirement of twenty years' residence to qualify as a voter a man going there from another State; and thus they might continue the political power of the State for twenty years in the hands of the present residents of the State. It is said that they are rebels. Granting that this is so, still they have the power in their hands; and I do not think it will be stricken from their grasp. The effect of the voter basis will be that the representation of a State in Congress will be reduced in proportion to the number of men that it excludes from the exercise of the right of suffrage. If a hundred thousand loyal men from the northern States settle in the State of Virginia, and she does not allow them to vote, she gains no increased representation by the addition to her population. If the basis of representation were founded on voters, the States would be induced to forego the passage of such laws as those to which I have referred; while a constitutional provision referring simply to the exclusion from voting on account of race or color would have no such effect.

If we adopt the principle of basing representation on voters, it will, as I have said, permit and encourage the introduction of negro suffrage. Besides, by such a change in our Constitution, we would, adopting the whole proposition, establish the principle that direct taxes shall be levied on property wherever it may be located, according to its value.

That proposition was defeated, I believe, because California would gain by it two or three Representatives—

Mr. GRINNELL. My friend from Nevada will allow me to remind him that one of the great objections that was urged against the principle of representation based on voters was that it would offer a direct inducement to Maryland and Missouri to accord the exercise of suffrage to those who have been engaged in the rebellion, and who for that reason are now extended from voting in those States.

Mr. ASHLEY, of Nevada. Mr. Speaker, the correctness of rules is determined sometimes by a reference to extreme cases. Maryland and Missouri, and I believe Tennessee, (which it is proposed to bring in) are in the same category in that respect; they do not allow those who have been engaged in the rebellion to vote. Now, sir, the great mass of those who were engaged in the rebellion have had an amnesty granted them; they are not to be punished. I think that very few practically will be punished; certainly the great mass of those who were engaged in the rebellion will not be.

This class of persons are left with all their rights of property; and they constitute, if not in Maryland and Missouri, in some of the south-

ern States, perhaps nine tenths of the population; and if we are to permit our system of popular government again in those States, we must allow the people resident there to control their own local State governments. We cannot rule those States as conquered provinces by military law for any considerable length of time without violating the spirit of our Government and endangering its continuance, for military power soon forgets to loose its hold, and unbroken history tells how surely in the end liberty always perishes under martial rule.

And, sir, if you wish to sustain the principles of your Government by punishing those men who have been engaged in rebellion, the proper method is to bring them before the courts to answer in accordance with law for the crimes which they may have committed. If they are not fit to be citizens, if they are not fit to be intrusted with power on account of crimes, you ought to have brought them before the courts and sent them to prison or the gallows. As long as you allow them to constitute four fifths of the community, as long as you tax them on account of their labor and wealth, as long as you allow them to hold property and occupy the country, excluding other people, I tell you, as long as you care anything for the genius of our institutions, you must allow them to control their States, rebels though they were. If that is not to be the rule, why did we grant them an amnesty? Whether founded upon correct principle or not, it will practically work out in that way; and the only escape we have from the results of giving them increased representation on account of the abolition of slavery is to adopt this amendment for the voters' basis. I think that answers the question put to me as to allowing rebels to vote. We do not allow, we simply cannot escape it. You can no more through Congress pass a law regulating suffrage in Tennessee or Arkansas than in New York or California.

I think, sir, it is a strange era in the history of the American Government when, in Congress, we are to punish a portion of the people by depriving them of their political rights. I thought heretofore, when men had committed crimes, they were to be punished in the courts of law. If they presumed to make a rebellion, we opposed force to force, and in that manner, to some extent, they have been punished. Why, sir, all the institutions of the South were based upon slavery. It was the substratum of the aristocratic system which raised armies against the Government, and they have been punished by having that swept away. Indeed those men who had political power and were the rulers in the South are no more potent than I or any other humble individual in this country to-day, except so far as their individual weight and merit aids them. They have been punished in that respect. They have lost large numbers of their population. They have lost the prestige

which made them leading men, and they are not to regain it except through petty divisions among ourselves we throw it into their hands.

I do not believe we ought to vituperate against each other. I do not believe we ought to take it for granted so soon, until it is forced upon us inevitably, that men who have been with the Union party, and have made sacrifices for the Government, who came from the southern States and were as loyal and as brave in defense of this Union as men from any other section, are traitors to the Union cause or affiliate with rebels because their plan of reconstruction is not ours. I, for one, do not believe we have at this day the right to assume that the man who, of all others, was loyal in Tennessee, and finally established a civil government there before the rebellion was entirely closed, is now false to his country. I will not join with those who believe we ought to drive him from our ranks by abuse, assuming beforehand he is a traitor. I say, no matter what men may do in this District, and in this atmosphere, it will be hard to make the voters of the country believe that Andrew Johnson, whom they elected Vice President a little more than a year ago, is a traitor. No, it cannot be.

Traitor for what? Because he is not willing that negro suffrage shall be forced upon the country? I never heard he favored that measure, and certainly during the election the adherents of Lincoln and Johnson on the Pacific coast disclaimed holding such a doctrine.

I do not believe negroes should have equal political power with other men given them now, because they are not yet fitted to vote. I cannot think that where they are in a numerical majority they ought to have the control of States; and you cannot make the people believe men are traitors for that opinion. Negroes did not establish this Government and they did not maintain it. They gave us aid during the rebellion, and for that we gave them freedom; and for that I am in favor of their education and improvement to qualify them for the exercise of political rights. But I would not insist on their having those powers now.

If we can get an amendment of the Constitution of the character I have discussed, let it be adopted, for we can get nothing else. If that cannot pass we might as well stop.

We ought to have an amendment to the Constitution that no State shall pay any debt contracted for the rebellion. With two or three thousand millions of debt, I tell you the southern States will have an important influence hereafter in urging the payment of that debt. Therefore we ought to have that constitutional amendment.

Then we should have another constitutional amendment prohibiting the States from levying taxes to pay pensions to the men engaged in the rebellion against the Government of the United States; because men who have devoted

their property and their time to the defense of this Government, who may happen to go into the southern States hereafter, should never be subjected to the least exaction to pay any of the obligations contracted by those who engaged in the rebellion.

Then there should be an amendment of the Constitution prohibiting payment for the value of slaves that have been emancipated.

And then, if you are to have any change of representation, let it be based upon the number of voters.

With these amendments of your Constitution what else do you want? Do you wish to have it said that you are going to exclude southern Representatives from this floor so long as you can maintain your power in Congress simply on the ground that the southern States have rebelled? If so, try it. But let me tell you there will be opposition enough to defeat that policy before three years pass away.

Thus having stated what I consider all the essential provisions needed in the way of constitutional amendments, I insist we should leave the people of the various States to govern themselves as heretofore. You cannot force negro suffrage upon the States either by statutory enactment or constitutional amendment, and I do not believe in enforcing political penalties against those who took part in the rebellion any further than the law holds them personally responsible. The gentleman from Ohio [Mr. SCHENCK] uttered the true doctrine in his remarks on this floor when the constitutional amendment in regard to the basis of representation was before this House, when he declared that "now is the golden opportunity for us to base representation upon the number of voters, and it should not be lost." There is a volume of wisdom in the remark.

These amendments are to be adopted not as penalties, but as changes really desirable in themselves, and as the irreversible guarantees for future security which the nation has a right to demand as the fruit of its many sacrifices. You have now the opportunity to ingraft a principle in your Constitution as the basis of

representation which will not be regarded as a penalty, for it affects all the States alike, and can be adopted because it is right, and not for the sake of punishment. Representatives ought to come from the ruling people, from the men who vote, and not from those who are excluded. Thus let this amendment be urged upon the South as the true principle of representative government, while it leaves them full control over the matter of suffrage in their own States. The experience of the last sixty years has demonstrated that a mistake was made at the outset, to some extent, by the framers of the Constitution in basing representation upon a class that were excluded from all participation in Government, and adopted only as a compromise to secure the right to levy direct taxes on slave property, which property now having ceased to exist, leaves the injustice of the provision more marked than before. By this experience let us profit, and introduce a rule needing no defense or explanation and enduring as the temple of reason.

We must hasten in our policy of reconstruction, for there is a growing impatience to have the country quieted. The late rebel States have accepted the abolition of slavery. Now, suppose complete restoration is proffered with these other bases of organic law—equal power and representation to every citizen voter throughout the nation; no taxation to pay debts or obligations incurred in warring against the Union, and no gratuity or donation for services against our country; no compensation for loss or emancipation of slaves; loyal men to be accepted as Senators and Representatives from the now unrepresented States—ought not the offer to be accepted by those we have spared from the sword, and cannot we, the victors, generously grant these terms? Yes; and the loyal masses who sustained your Government through the late trials will not falter in your support. Only present your plan of reconstruction, rather than theories and modes of exclusion, and the clouds that now darken our prospect will give way from horizon to zenith, leaving all bright in a restored and strengthened country.



















































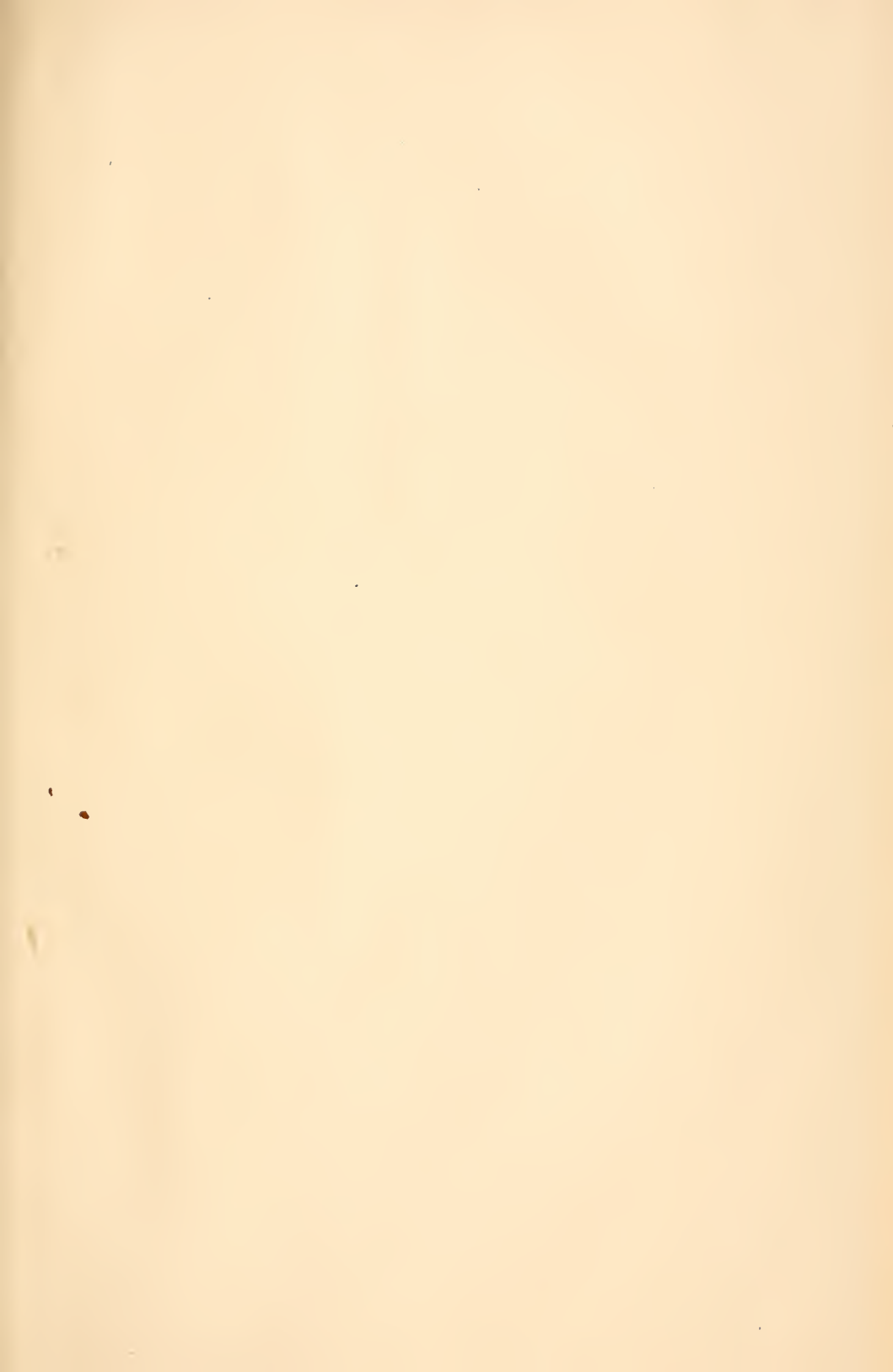






























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